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RECENT CASES

ADVERSE POSSESSION—ACTS CONSTITUTING—PAYMENT OF TAXES.—*FITZSIMONS v. ATHERTON*, 124 PAC. (CAL.), 250.—*Held*, that one who has been in the continued adverse possession of a tract, but who has never paid any taxes, does not acquire title by adverse possession.

The object of the State is to collect taxes from everyone who claims title to land, and if claimants of hostile titles would protect the titles they claim, they must pay taxes. *State v. Law*, 46 W. Va., 451. And title by adverse possession cannot be maintained by one who has failed to pay the taxes on the property so claimed. *Tuffree v. Polhemus*, 108 Cal., 670; *Rodriguez v. Priest*, 59 Tex. Cr. Rep., 248. But the mere paying of the taxes is not enough to constitute adverse possession. *Dickinson v. Bales*, 59 Kan., 224. The above cases hold that the payment of taxes is an element of adverse possession in the absence of statutes. This is the majority view. The minority line of cases holds that payment of taxes is not an element of adverse possession unless made so by express statutory requirement. Even where it is the fault of the claimant that the land was not assessed. *Coonradt v. Hill*, 79 Cal., 587. In a suit to recover lands the defendant could avail himself of the statute of limitations although he had not paid the taxes on the land during the running thereof. *Anderson v. Canter*, 10 Kan. App., 167. For possession ripens into title whether claimant pays taxes or not. *Silverstone v. Hanley*, 55 Wash., 458. For a complete list of statutes covering this point, see *Washburn on Real Property*, 6th Ed., Vol. 3, pp. 148-163. It would seem to be the better rule that in the absence of statute, non-payment of taxes should not defeat the claim of title by adverse possession. The State is amply protected by its power to sell the land for taxes, and the claim may well be adverse to the owner, though the disseisor fails to pay the taxes. Under the rule established in the principal case, the State might be enabled to collect taxes on the same land from several different claimants.

DAMAGES—MENTAL ANGUISH.—*HENRY v. SOUTHERN RY. CO.*, 75 S. E. (IND.), 1018.—*Held*, that in the absence of statute, damages for mental anguish cannot be recovered in an action for injuries to personal property.

Pain of mind is not the subject of damages in the absence of bodily injury; *Morse v. Duncan*, 14 Fed., 396; *Summerfield v. W. U. Tel. Co.*, 87 Wis., 1; but if connected with bodily injury such damages are recoverable; *Buth v. Nat'l Bank*, 79 Mo. App., 168; even by an insane person. *Gulf, W. T. & P. Ry. Co. v. Holzheuser*, 45 S. W., 188. And so if the damages are caused by the unlawful act of another; *Lake Erie & W. R. Co. v. Christison*, 39 Ill. App., 495; *Louisville & N. R. Co. v. Hunter*, 10 Ky. Law Rep., 871; even in an action for breach of contract. *Enders v. Skamal*, 35 La. Ann., 1000. If the damage caused by the mental anguish is the proximate result of a legal wrong against plaintiff by defendant, a recov-